



BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

**Advisory Opinion
No. 09-03-002**

An employee must not participate in any matter that affects, in a manner distinct from its effect on the public generally, any property in which the employee holds an economic interest. § 19A-11(a)(1)(A). An HOC (Housing Opportunities Commission) employee, who purchased his home from HOC under the MPDU (Moderately Priced Dwelling Unit) program and now wishes to sell his home, asks whether the ethics law precludes him from honoring the MPDU law requirement that he offer HOC a right of first refusal. We conclude that the employee must offer HOC a right of first refusal, as required by the MPDU law, but that the ethics law precludes the employee from participating in that matter in his role as an HOC employee.

The employee purchased his home from HOC under the MPDU program. He was an HOC employee at that time and continues to work for HOC today. When an owner wishes to sell his MPDU, the law requires that the owner first offer the unit back to HOC. HOC is entitled to share in the equity of the unit when resold. If HOC elects not to purchase the unit, the owner may sell it in the market, but HOC is still entitled to an equity split with the owner.

Following the dictates of the MPDU law, the employee offered his unit to HOC. Although the employee's duties include inspecting units that are offered for resale to HOC, he wisely recused himself from inspection of his own unit. HOC inspected and ultimately decided to purchase the unit. The employee has not participated in HOC's decision to purchase his unit.

The employee is following the correct course of action. Like any other MPDU owner, he must comply with the MPDU law. The ethics law merely requires that he not participate in the matter (the resale of his MPDU) as an HOC employee because of the obvious conflict between the employee's personal and professional interests.

In reaching this decision the Commission has relied upon the facts as presented by the requestor.

FOR THE COMMISSION:

March 17, 2009

Date

Antar Johnson, Chair